

**立法會**  
**Legislative Council**

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**Paper for the House Committee meeting on 24 May 2019**

**Report of the Subcommittee on Insurance (Prescribed Fees)  
(Amendment) Regulation 2019**

**Purpose**

This paper reports on the deliberations of the Subcommittee on Insurance (Prescribed Fees) (Amendment) Regulation 2019 ("the Subcommittee").

**Background**

2. As an independent regulatory body, the Insurance Authority ("IA") is financially and operationally independent of the Government. IA is empowered to collect a levy on insurance premiums from policyholders and various fees including authorization fees from insurance companies, licence fees from insurance intermediaries<sup>1</sup> and user fees on specific services provided. The long term target is that about 70% of IA's expenditure will be met by income from the levy and the remaining 30% by income from various fees.

3. Section 128 of the Insurance Ordinance (Cap. 41) ("IO") stipulates, among other things, that the Chief Executive in Council ("CE-in-C") may, after consulting IA, by regulations provide for the payment to IA of, and prescribe fees for anything done by IA in performing a function under IO. The regulations are subject to negative vetting by the Legislative Council ("LegCo").

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<sup>1</sup> According to the Administration, licence fee payable by insurance intermediaries will be dealt with in the next stage, when the statutory regulatory regime for insurance intermediaries is in place.

## **The Insurance (Prescribed Fees) (Amendment) Regulation 2019**

4. On user fees, the first batch of 11 more frequently used service items has come into effect on 26 June 2017.<sup>2</sup> The Insurance (Prescribed Fees) (Amendment) Regulation 2019 ("the Amendment Regulation") was made by CE-in-C under section 128(1) of IO after consulting IA to add 12 new items of user fees to the Schedule to the Insurance (Prescribed Fees) Regulation (Cap. 41B).<sup>3</sup> The proposed items cover mainly fees in relation to transfer of businesses and various modifications to the accounting requirements under different sections of IO and apply primarily to insurance companies or their auditors.

5. The Amendment Regulation (except section 4(2) relating to the fees for obtaining a copy or a certified copy of an entry in the register of licensed insurance intermediaries) comes into operation on 27 May 2019.<sup>4</sup>

### **The Subcommittee**

6. At the House Committee meeting on 12 April 2019, Members agreed to form a subcommittee to study the Amendment Regulation. The membership list of the Subcommittee is in **Appendix I**. Under the chairmanship of Hon WONG Ting-kwong, the Subcommittee has held one meeting with the Administration and IA to examine the Amendment Regulation.

7. To allow more time for the Subcommittee to study the Amendment Regulation, Hon Starry LEE, Chairman of the House Committee, has given notice to move a resolution at the Council meeting of 17 April 2019 to extend the

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<sup>2</sup> Via the Insurance Companies (Register of Insurers) (Prescribed Fee) (Amendment) Regulation 2017. The 2017 Amendment Regulation also amended the title of the Regulation as "Insurance (Prescribed Fees) Regulation".

<sup>3</sup> The fee for obtaining a copy or a certified copy of an entry in the register of licensed insurance intermediaries under section 64O(3)(a) and (b) of the Insurance Ordinance (Cap. 41) ("IO") (i.e. proposed new item 7A and item 7B in the Schedule to the Insurance (Prescribed Fees) Regulation (Cap. 41B) respectively), is counted as one fee item.

<sup>4</sup> Section 4(2) of the Insurance (Prescribed Fees) (Amendment) Regulation 2019 comes into operation on the day on which section 74 (in so far as it relates to the new section 64O(3)) of the Insurance Companies (Amendment) Ordinance 2015 comes into operation. Section 74 adds provisions (including new section 64O) to Part X of IO to provide for matters relating to the regulation of insurance intermediaries. Section 64O has yet to come into operation and will come into operation on a day to be appointed by the Secretary for Financial Services and the Treasury by notice published in the Gazette.

scrutiny period for the Amendment Regulation to the Council meeting of 22 May 2019. When the Council meeting of 17 April 2019 was adjourned, the agenda item on the proposed resolution was not reached. The scrutiny period for the Amendment Regulation therefore expired at the Council meeting of 17 April 2019.

## **Deliberations of the Subcommittee**

### Methodology for determining the levels of fees

8. The Subcommittee has examined how IA had determined the levels of fees in the Amendment Regulation. IA has explained that it adopts a cost recovery principle in determining the fee levels of providing specific services i.e. according to the efforts and time required by IA to provide the requested service. IA has used the same computation methodology as that for the first batch of user fees in working out the new fee items covered by the Amendment Regulation, and such methodology is largely in line with the approach used by the Government. In response to the request of Subcommittee members, IA has provided the details for working out the new fee items in **Appendix II**.

9. In respect of the new fee item 18 which relates to performance of IA's function in relation to a petition served on it for transfer of long term business under section 24(1) of IO, the Subcommittee has enquired how IA would protect the interests of policyholders during the transfer of long term businesses among insurers, and whether the proposed fee of \$300,000 would sufficiently cover IA's cost in handling a complicated case of transfer.

10. IA has responded that court's approval has to be sought for the transfer of long term businesses, and there are provisions in IO requiring both the transferor and transferee insurers to provide IA with copies of the documents they have submitted to the court. IA will examine such documents to ensure the interests of the policyholders of the transferor and transferee insurers would not be adversely affected after the transfer. The proposed fee of \$300,000 for the item only covers IA's internal administration cost in reviewing the documents (e.g. proposed scheme documents, petition, affidavits, independent actuary's report), assessing the solvency position of the authorized insurers concerned, assessing if the interest of the policyholders of both the transferor and transferee insurers will be affected after the transfer, and attending court hearings. If IA is to be involved in a court hearing, the relevant cost incurred by IA (including the cost for engaging external counsel/solicitors or auditors) will be awarded to IA by the court as appropriate.

11. As regards the new fee item 22 for obtaining IA's written consent for the use of certain terms and representations associated with the word "insurance" or "assurance" (or "保險" in Chinese) under section 56A(1) of IO, the Subcommittee has enquired about the scope of terms and representations to be covered and the enforcement actions the Administration and IA would take against non-compliance with the requirement.

12. The Administration has explained that section 56A(1) of IO prohibits an entity from using the word "insurance" or "assurance" (or "保險" in Chinese) in its name and business description unless it has obtained IA's written consent. IA will assess the appropriateness and suitability of the applicant for using such words in its representations, and whether such representations would mislead the public. In general, IA would not approve an application if the entity concerned is not engaged in insurance business. On enforcement action, IA would act on complaints, and would notify the Police of non-compliance cases (including fraudulent websites of insurer identified) for the latter to take relevant follow-up actions.

#### Consultation with the insurance industry

13. Members of the Subcommittee have enquired about IA's consultation with the insurance industry in working out the new fee items in the Amendment Regulation and the industry's views.

14. IA has advised that it had consulted the insurance industry on the fee proposals. The industry generally found the proposed items and fee levels acceptable. On the new fee item 16 and item 23,<sup>5</sup> the industry has suggested that a longer validity period should be granted for IA's approval on the applications concerned. IA takes note of the industry's suggestions and will consider them having regard to the specific circumstances of individual insurers as well as the prevailing international requirements.

#### **Recommendation**

15. The Subcommittee has completed scrutiny of the Amendment Regulation and raised no objection to the Amendment Regulation.

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<sup>5</sup> Item 16 relates to the submission of financial information, request for modifying or varying any of the requirements of Schedule 3 to IO in relation to an authorized insurer in such respects and for such period as the Insurance Authority and the insurer may agree under section 17(2) of IO. Item 23 relates to application for relaxation of rules to be provided for determination of the value of the assets and the amount of the liabilities of an authorized insurer under section 130 of IO.

**Advice sought**

16. Members are invited to note the deliberations of the Subcommittee.

Council Business Division 1  
Legislative Council Secretariat  
22 May 2019

**Subcommittee on Insurance (Prescribed Fees) (Amendment)  
Regulation 2019**

**Membership list**

**Chairman** Hon WONG Ting-kwong, GBS, JP

**Members** Hon Tommy CHEUNG Yu-yan, GBS, JP  
Hon CHAN Kin-por, GBS, JP  
Hon Alice MAK Mei-kuen, BBS, JP  
Dr Hon KWOK Ka-ki  
Hon Dennis KWOK Wing-hang  
Hon Alvin YEUNG

(Total : 7 members)

**Clerk** Ms Connie SZETO

**Legal Adviser** Ms Clara TAM

**List of New User Fee Items**

Note: The number of "man-days" refers to the aggregate efforts and time of different levels of responsible staff involved. Actual time spent by each level of responsible staff depends on the complexity of each task.

	<b>Corresponding Item Number under the Amended Cap. 41 sub. leg. B</b>	<b>Service Items</b>	<b>Fee Levels (HK\$)</b>	<b>The Insurance Authority (IA)'s Work in Processing Each Request</b>	<b>Efforts and Time Normally Required by IA to Process Each Request</b>
1.	7A  7B	Obtaining copy or certified copy of entry or extract of the register of licensed insurance intermediaries under section 64O(3)(a) and (b) of the Insurance Ordinance (Cap. 41) ("IO")	6 per page (without certification)  100 plus 6 per page (with certification)	To make photo copy or prepare certified copy of the relevant part of the register of licensed insurance intermediaries.	The cost is mainly attributable to cost of photocopying and certification
2.	13	Application for waiver of annual fee under section 13(1)(b) of the IO where an authorized insurers does not intend to effect any contracts of insurance after any anniversary of its authorization date	2,000	To review an authorized insurer's financial position and the status of its run-off insurance portfolio and assess if authorization of the insurer is ready to be withdrawn.	About 1 man-day
3.	14	Application for acceptance by IA other actuarial standards as being comparable to the prescribed standards under section 15C of the IO	5,000	To make assessment on the comparability between the proposed actuarial standards and the prescribed standards under the IO.	About 2 man-days

	<b>Corresponding Item Number under the Amended Cap. 41 sub. leg. B</b>	<b>Service Items</b>	<b>Fee Levels (HK\$)</b>	<b>The Insurance Authority (IA)'s Work in Processing Each Request</b>	<b>Efforts and Time Normally Required by IA to Process Each Request</b>
4.	15	Extension of deadline for submission of accounts under section 20(1) of the IO	2,000	To assess if the extension of filing of accounts would restrict the ability of IA to conduct the solvency assessment.	About 1 man-day
5.	16	In relation to the submission of financial information, request for modifying or varying any of the requirements of Schedule 3 to the IO in relation to an authorized insurer in such respects and for such period as IA and the insurer may agree under section 17(2) of the IO	30,000	To assess the modified or varied requirements to Schedule 3 to the IO would be sufficient for IA to assess solvency position of the insurer.	About 6 man-days
6.	17	Application by foreign insurers for maintaining separate accounts of long term business carried on in or from Hong Kong under section 22A(1) to the IO	50,000	To examine the manner and appropriateness of which the insurer maintains separate account for its assets and liabilities attributable to its Hong Kong long term business.	About 9 man-days



	<b>Corresponding Item Number under the Amended Cap. 41 sub. leg. B</b>	<b>Service Items</b>	<b>Fee Levels (HK\$)</b>	<b>The Insurance Authority (IA)'s Work in Processing Each Request</b>	<b>Efforts and Time Normally Required by IA to Process Each Request</b>
7.	18	Performance of IA's function in relation to a petition served on it for transfer of long term business under section 24(1) of the IO (other than performance for which court costs may be awarded to IA, e.g. engaging external counsel or solicitors or both)	300,000	To review the transfer scheme documents (e.g. proposed scheme documents, petition, affidavits, independent actuary's report); assess solvency position of authorized insurers concerned; assess if the interest of the policyholders of both the transferor and transferee are not affected after the transfer; and attend court hearings.	About 50 man-days
8.	19	Obtaining approval from IA of terms and conditions of a letter of credit or other commitment from a bank under section 25C(1) of the IO	5,000	To review the appropriateness and suitability of the terms and conditions of the letter of credit or other commitment from a bank.	About 2 man-days
9.	20	Application for transfer of general business under section 25D(1) of the IO	300,000	To review the terms and conditions of the proposed transfer agreement, report on transfer particulars, and other specific information requested by IA. This includes assessment of the solvency position	About 50 man-days

	<b>Corresponding Item Number under the Amended Cap. 41 sub. leg. B</b>	<b>Service Items</b>	<b>Fee Levels (HK\$)</b>	<b>The Insurance Authority (IA)'s Work in Processing Each Request</b>	<b>Efforts and Time Normally Required by IA to Process Each Request</b>
				of the authorized insurers concerned to ensure the interests of policy holders are not affected by the transfer.	
10.	21	Request for confirmation to an authorized insurer's auditor about the authorization status and other matters relating to the insurer	2,000	To review an authorized insurer's particulars (e.g. authorized classes of business)	About 1 man-day
11.	22	Obtaining written consent from IA for use of certain terms and representations associated with insurance under section 56A(1) of the IO	5,000	To assess the appropriateness and suitability of the applicant for use of "insurance" in its representations, and whether such representation would mislead the public.	About 2 man-days
12.	23	Request for relaxation of rules to be provided for determination of the value of the assets and the amount of the liabilities of an authorized insurer under section 130(1) of the IO	30,000	To assess if the relaxed requirements would have implications on the valuation of assets and liabilities of the insurer.	About 6 man-days